

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-1654

MINGA GUY TSHILEMBI,

Petitioner,

versus

JOHN ASHCROFT, Attorney General of the United
States of America,

Respondent.

On Petition for Review of an Order of the Board of Immigration
Appeals. (A95-220-625)

Submitted: November 30, 2004

Decided: December 29, 2004

Before NIEMEYER, GREGORY, and DUNCAN, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Minga Guy Tshilembi, Petitioner Pro Se. Calvin McCormick,
IMMIGRATION AND NATURALIZATION, Baltimore, Maryland; Thomas Ward
Hussey, M. Jocelyn Lopez Wright, Victor Matthew Lawrence, Michelle
Elizabeth Gorden, UNITED STATES DEPARTMENT OF JUSTICE, Washington,
D.C., for Respondent.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Minga Guy Tshilembi, a native and citizen of the Democratic Republic of Congo, petitions for review of an order of the Board of Immigration Appeals (Board) affirming the Immigration Judge's (IJ) denial of his application for asylum and withholding of removal. Tshilembi challenges the IJ's finding that he failed to present credible testimony and thus did not meet his burden of proof to qualify for asylum.

To obtain reversal of a determination denying eligibility for relief, an alien "must show that the evidence he presented was so compelling that no reasonable factfinder could fail to find the requisite fear of persecution." INS v. Elias-Zacarias, 502 U.S. 478, 483-84 (1992). We have reviewed the evidence of record and conclude that the IJ's negative credibility findings are supported by specific, cogent reasons. Figeroa v. INS, 886 F.2d 76, 78 (4th Cir. 1989). Accordingly, Tshilembi fails to show that the evidence compels a contrary result. Having failed to qualify for asylum on this ground, Tshilembi cannot meet the higher standard to qualify for withholding of removal. Chen v. INS, 195 F.3d 198, 205 (4th Cir. 1999); INS v. Cardoza-Fonseca, 480 U.S. 421, 430 (1987).

Finally, we lack jurisdiction over Tshilembi's challenge to the denial of protection under the Convention Against Torture because he failed to properly exhaust this claim in his appeal to the Board. See 8 U.S.C. § 1252(d)(1) (2000); Asika v. Ashcroft,

362 F.3d 264, 267 n.3 (4th Cir. 2004), petition for cert. filed, 73 U.S.L.W. 3135 (U.S. Aug. 23, 2004) (No. 04-256).

Accordingly, we deny the petition for review. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION DENIED